

UNITED STATES DISTRICT COURT  
DISTRICT OF DELAWARE

CHAMBERS OF  
JOSEPH J. FARNAN, JR.  
JUDGE

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May 18, 2006

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RE: Wyeth v. Impax Laboratories, Inc.  
Civil Action No. 06-222 JJF

Dear Counsel:

Pursuant to Federal Rule of Civil Procedure 16(b) and Local Rule 16.2, the Court requests that counsel confer and submit to the Court a Proposed Pretrial Scheduling Order on or before **Monday, June 5, 2006**.

Attached is a sample form of Order which should serve as a basis for your discussions. The Court schedules jury trials to commence within sixteen (16) months from the date of filing. If there is no demand for a jury trial or if the parties waive trial by jury, trial can be scheduled within four (4) to nine (9) months from the date the case was filed. When discussing the schedule of this matter, please account for all the events that can adversely affect your preparation for the trial.

If either party believes that a conference with the Court is needed, please direct any requests or questions regarding the scheduling and management of the above matter to Case Manager Debbie Krett at (302) 573-6168.

Sincerely,



JOSEPH J. FARNAN, JR.

JJFjr:dk  
Attachment  
cc: Clerk, U.S. District Court

(Patent Revised 05/04)

**RULE 16 SCHEDULING ORDER**

The parties having satisfied their obligations under  
Fed. R. Civ. P. 26(f),

IT IS ORDERED that:

1. **Pre-Discovery Disclosures.** The parties [have  
exchanged] [will exchange] by (date) the information required by  
Fed. R. Civ. P. 26(a)(1) and D. Del. LR 16.2.

2. **Joinder of other Parties.** All motions to join  
other parties shall be filed on or before (date).

3. **Discovery.**

(a) Exchange and completion of contention  
interrogatories, identification of fact witnesses and document  
production shall be commenced so as to be completed by (date).

(b) Maximum of \_\_\_\_\_ interrogatories, including  
contention interrogatories, for each side.

(c) Maximum of \_\_\_\_\_ requests for admission by  
each side.

(d) Maximum of \_\_\_\_\_ depositions by plaintiff(s)  
and \_\_\_\_\_ by defendant(s), excluding expert depositions.  
Depositions shall not commence until the discovery required by  
Paragraph 3(a, b and c) is completed.

(e) Reports from retained experts required by Fed.  
R. Civ. P. 26(a)(2) are due from the plaintiff(s) by (date);

from the defendant(s) by (date).

(f) Any party desiring to depose an expert witness shall notice and complete said deposition no later than thirty (30) days from receipt of said expert's report, unless otherwise agreed in writing by the parties or ordered by the Court.

#### **4. Discovery Disputes.**

(a) A party seeking discovery which the opposing party refuses to provide shall file a motion (no brief) pursuant to Rule 37 of the Federal Rules of Civil Procedure and Local Rule 37.1. Said motion shall not exceed a total of four (4) pages and must specify that the filing is pursuant to the Discovery Dispute procedures provided in this paragraph. An Answer to the Rule 37 motion, not to exceed four (4) pages, shall be filed within five (5) days of service of the motion. No reply is permitted.

(b) All papers shall set forth in a plain and concise manner the issue(s) in dispute, the party's position on the issue(s), and the reasons for the party's position.

(c) Upon receipt of the Answer, the movant shall notify Chambers by e-mail at [jjf\\_civil@ded.uscourts.gov](mailto:jjf_civil@ded.uscourts.gov) that the dispute is ready for decision.

(d) Upon receipt of the movant's e-mail, the Court will determine whether a conference is necessary and advise the parties accordingly.

(e) There is no limit on the number of Rule 37 motions a party may file, unless otherwise ordered by the Court.

5. **Amendment of the Pleadings.** All motions to amend the pleadings shall be filed on or before \_\_\_\_\_.

6. **Case Dispositive Motions.** Any case dispositive motions, pursuant to the Federal Rules of Civil Procedure, shall be served and filed with an opening brief on or before \_\_\_\_\_, 20\_\_\_\_. Briefing shall be pursuant to D. Del. LR 7.1.2. No case dispositive motion may be filed more than ten (10) days from the above date without leave of the Court. The Court will issue a separate Order regarding procedures for filing summary judgment motions.

7. **Markman.** A Markman Hearing will be held on \_\_\_\_\_. Briefing on the claim construction issues shall be completed at least ten (10) business days prior to the hearing. The Court, after reviewing the briefing, will allocate time to the parties for the hearing.

8. **Applications by Motion.**

(a) Any applications to the Court shall be by written motion filed with the Clerk of the Court in compliance with the Federal Rules of Civil Procedure and the Local Rules of Civil Practice for the United States District Court for the District of Delaware (Amended Effective January 1, 1995). Any non-dispositive motion shall contain the statement required by D. Del. LR 7.1.1. Parties may file stipulated and unopposed Orders with the Clerk of the Court for the Court's review and signing. The Court will not consider applications and requests submitted

by letter or in a form other than a motion.

(b) No facsimile transmissions will be accepted.

(c) No telephone calls shall be made to Chambers.

(d) Any party with a true emergency matter requiring the assistance of the Court shall e-mail Chambers at: jjf\_civil@ded.uscourts.gov. The e-mail shall provide a short statement describing the emergency.

9. **Pretrial Conference and Trial.** After reviewing the parties' Proposed Scheduling Order, the Court will schedule a Pretrial Conference.

The Court will determine whether the trial date should be scheduled when the Scheduling Order is entered or at the Pretrial Conference. If scheduling of the trial date is deferred until the Pretrial Conference, the parties and counsel shall anticipate and prepare for a trial to be held within sixty (60) to ninety (90) days of the Pretrial Conference.

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DATE

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UNITED STATES DISTRICT JUDGE